



October 21, 2005



CALIFORNIA
CHAMBER of
COMMERCE

Tam Doduc
Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Re: **Areas of Special Biological Significance–October 24, 2005 State Board Workshop**

Dear Chairwoman Doduc:



We are writing with respect to the State's regulation of Areas of Special Biological Significance (ASBS), as current trends in ASBS governance raise serious concerns, with potentially far-reaching and unintended consequences. We the undersigned represent a diverse group of small and large cities, small and large counties, business organizations, industry, school districts, farmers and other entities throughout the State. We are active participants in efforts to keep our State's waters clean and healthy, and recognize and appreciate the value to California in maintaining water quality. We have united as a broad-based coalition working to protect our coast and communities.



We appreciate the State Water Board's recognition, at the August 31 ASBS Workshop, of the practical realities in eliminating all pollutants from storm water, intercepting and pumping storm water out of ASBS watersheds, or directing it to Publicly Owned Treatment Works, which do not have the capacity to handle such flows. However, we remain greatly concerned that the State Water Board is unnecessarily complicating the path to a pragmatic ASBS program by continuing to assert that the underlying Ocean Plan prohibition allows only pristine storm water to enter ASBSs. Since no storm water contains zero pollutants, this extreme interpretation preordains a program based on exceptions to the prohibition – raising a host of concerns, starting with the presumption that runoff to ASBSs is *per se* illegal, irrespective of whether that runoff is affecting water quality or the ecosystem.



Under the zero allocation theory, the Central Coast Regional Board earlier this year issued Cease and Desist Orders proscribing runoff to ASBSs from golf courses and small towns that has been occurring for decades, without any apparent harm to the ASBSs. In La Jolla, the Scripps Institution of Oceanography recently began operating under an exception process premised on zero allocation that will cost millions of dollars over 5 years – and that is just the beginning.



Other regulators have suggested that Table B of the Ocean Plan sets the standards that must be met before storm water can enter an ASBS. The Table B standards were developed for application in the Ocean, not in the discharge. Many of the Table B standards are more stringent than the State's drinking water standards, which are well known to require very costly treatment works. Clearly, the Table B standards do not present a reasonable or practicable approach.



In fact, these zero-tolerance regulatory approaches cannot be squared with any apparent threat to the State's ASBSs from storm water runoff. For example, based upon decades of observations, which include detailed surveys of inter tidal and sub tidal communities, experts at the Hopkins Marine Station have been unable to identify any negative effects of storm water discharge into the Hopkins Marine Life Refuge (established in 1931). Therefore, in the absence of any data indicating negative effects of storm water discharge on coastal marine ecosystems, the expenditure of resources to eliminate storm water discharge into this ASBS is not warranted. We believe a similar conclusion would be reached for other ASBSs, as only the most pristine areas were subject to original designation.

